

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

DOMINGO RODRIGUEZ and JENNIFER  
RODRIGUEZ,

Plaintiffs,

v.

ATHENIUM HOUSE CORP. and  
ANDREWS BUILDING CORPORATION,

Defendants.

---

**NOTICE OF MOTION**

11 Civ. 5534 (LTS) (KNF)

**PLEASE TAKE NOTICE** that upon the annexed Declaration of Scott Haworth, dated the 27<sup>th</sup> day of June, 2012, along with the exhibits attached thereto, the accompanying Memorandum of Law, and upon all the pleadings and proceedings heretofore had herein, defendants ATHENIUM HOUSE CORP. and ANDREWS BUILDING CORPORATION, by their counsel, HAWORTH COLEMAN & GERSTMAN, LLP, and FUREY, KERLEY, WALSH, MATERA & CINQUEMANI, P.C., will move this Court, before the Honorable Laura Taylor Swain, United States District Judge, at the United States District Court, Southern District of New York, located at 500 Pearl Street, New York, New York, 10007, on a date and time to be determined by the Court, for an Order pursuant to Rules 702 and 703 of the Federal Rules of Evidence, precluding plaintiffs' liability expert, Michael Kravitz, P.E., from testifying at trial of this matter. In the alternative, defendants seek a hearing pursuant to Rule 104(a) of the Federal Rules of Evidence so this Court may evaluate the admissibility of Mr. Kravitz's proffered testimony or granting such other relief as this Court may deem to be just and proper.

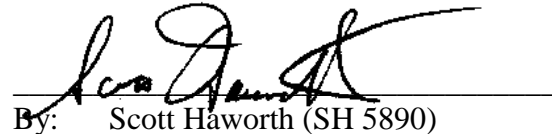
**PLEASE TAKE FURTHER NOTICE** that any opposition is to be served in accordance with the Local Civil Rule 6.1(b).

**PLEASE TAKE FURTHER NOTICE** that oral argument is requested.

**PLEASE TAKE FURTHER NOTICE** that defendants have complied with the Individual Practices of Judge Laura Taylor Swain, Sections 2 (i) and (ii), regarding the informal resolution of motions. Defense counsel conferred with plaintiffs' counsel on June 20, 2012 regarding the subject of the within motion and wrote to counsel on June 25, 2012, in an effort to avoid motion practice. The parties were unable to resolve their differences, thus necessitating this motion.

Dated: New York, New York  
June 27, 2012

HAWORTH COLEMAN & GERSTMAN, LLC



By: Scott Haworth (SH 5890)

*Co-Counsel for Defendants*

ATHENIUM HOUSE CORP. and  
ANDREWS BUILDING CORPORATION  
45 Broadway, 21st Floor  
New York, New York 10006  
Telephone: (212) 952-1100

and

FUREY, KERLEY, WALSH, MATERA &  
CINQUEMANI, P.C.

s/

By: Glenn Matera (GM 8439)

*Co-Counsel for Defendants*

ATHENIUM HOUSE CORP. and  
ANDREWS BUILDING CORPORATION  
2174 Seaford Avenue  
Seaford, New York 11783  
(516) 409-6200

TO: (via ECF)

JAROSLAWICZ & JAROS, LLC

*Attorneys for Plaintiffs*

225 Broadway, 24<sup>th</sup> Floor

New York, New York 10007

Telephone (212) 227-2780